

# Memorandum

**Date:** May 15, 2013  
**Telephone:** (916) 654-4745  
**File:** 09-AFC-7C

**To:** **Commissioner Karen Douglas**, Palen Amendment Presiding Member  
**Commissioner David Hochschild**, Palen Amendment Associate Member  
**Kenneth Celli**, Hearing Officer

**From:** **California Energy Commission -** **Christine Stora**, Compliance Project Manager  
**1516 Ninth Street** **Siting, Transmission and Environmental Protection Division**  
**Sacramento, CA 95814-5512**

**Subject:** **Palen Solar Electric Generating System Amendment (09-AFC-7C)**  
**STATUS UPDATE No. 2 (May 2013)**

California Energy Commission

**DOCKETED**  
**09-AFC-7C**

TN 70827

MAY 15 2013

## Data Requests

Data Request Set No. 2 (containing Biological Resources, Cultural Resources, Socioeconomics and Visual Resources) was published on April 19, 2013, and staff is awaiting Data Responses from the applicant. Data Request Set No. 3 (containing Traffic and Transportation- Glint and Glare, Biological Resources, Cultural Resources, and Waste) was issued on May 15, 2013. Staff took the opportunity at the April 30<sup>th</sup>, May 1<sup>st</sup> and May 6<sup>th</sup> workshops to discuss these requests with the applicant prior to issuing them.

## Staff Workshops

Staff has had four workshops since the status report filed on April 4, 2013, and a summary of each is provided below.

The workshop held on April 17, 2013, covered issues in Data Request Set No. 1 (Biological Resources, Soil and Water Resources, Traffic and Transportation, and Transmission System Engineering).

The workshop held on April 30, 2013, covered issues related to Air Quality, Public Health Hazardous Materials and Traffic and Transportation-Glint and Glare. A brief discussion was also held on methods used for determining environmental justice issues for Socioeconomics at the request of Center for Biological Diversity. Staff and the applicant came to a quick agreement on proposed changes to conditions of certification for the proposed Palen Solar Power Project and had no issues to discuss on Water Resources, Land Use, Socioeconomics, Noise and Vibration, Facility Design, Transmission System Engineering and Transmission Line Safety and Nuisance. These topics were summarily addressed at the start of the meeting.

The workshop held on May 1, 2013, covered Cultural Resources, Worker Safety and Fire Needs Protection, Biological Resource issues including avian surveys, bats, vegetation management, solar flux, and the applicant's proposed mitigation package. Representatives of Riverside County attended and made a presentation of

the their Public Safety Enterprise Communication System and asked that the applicant have a 24-hour phone number they could call in the event that the Palen Solar Power Project interfered with their communication system. Cultural Resource survey methods and timing concerns were discussed at length. (More information is provided under Staff Issues/Concerns-Cultural Resources, below.) Alfredo Acosta Figueroa with Californians for Renewable Energy made a presentation regarding the need to preserve our Cultural and tribal sites. The applicant and staff agreed to continue the discussion of the draft biological data request on May 6, 2013. The workshop was continued to May 6, 2013.

The continuance workshop held on May 6, 2013, focused mostly on Biological Resource survey methodology. The applicant provided an update on avian and bat surveys that were ongoing. Staff discussed the draft biology data request in the Draft Data Request Set No. 3 with the applicant. Waste was also discussed and staff has included a Waste data request to Data Request Set No. 3.

### **Staff Issues/Comments**

There are a few issues that may impact the current schedule of the project and/or the content in the Preliminary Staff Assessment (PSA).

#### **1. Air Quality**

The applicant has submitted a new permit application to the South Coast Air Quality Management District (SCAQMD). The application has been reviewed by SCAQMD and determined to be incomplete. Staff needs the information in the Preliminary Determination of Compliance to complete staff's analysis. Because this information will not be available before staff needs to publish the PSA, the Air Quality analysis will cover construction Air Quality impacts only. Operational impacts will be discussed in the Final Staff Assessment (FSA) once SCAQMD finalizes the Preliminary Determination of Compliance for the Palen Solar Power Project.

#### **2. Biological Resources**

- a. All the biological surveys (avian, wildlife, plants, and state waters) to be completed by the applicant may not be completed in time to be incorporated into the PSA. Staff intends to continue workshopping issues as survey data and analyses are received from the applicant.
- b. Staff requires that the new project configuration be modeled to determine indirect impacts to sand transport. This modeling effort may not be completed in time to incorporate into the PSA.
- c. A Biological Opinion (BO) is needed before any ground disturbance occurs on the project site. The Bureau of Land Management (BLM) intends to reinstate consultation to amend the original BO that was issued for the Palen Solar Trough Project. In order to start that process, the applicant needs to submit a Biological Assessment (BA) to the BLM which the BLM will review and then in turn submit a Revised Biological Assessment (BA) to the U.S. Fish and Wildlife Service (USFWS). The applicant has not yet submitted the BA to the BLM.

### **3. Cultural Resources**

Staff and the applicant reached general consensus on the scale and approach for obtaining the additional information needed for cultural resources. However, the applicant expressed concern with BLM's required process for completing the requested fieldwork.

Since the project is on BLM land, the BLM is requiring the applicant to obtain Fieldwork Authorizations (FA) to complete the tasks required by the Energy Commission. To obtain the FA, the applicant has been directed to submit a proposed Study Work Plan to the BLM for review and approval. Once BLM has approved the work plan, BLM will provide the work plan for a 45-day review and comment period to the interested federally-recognized Native American tribes and signatories to the October 2010 Programmatic Agreement (PA) for the project executed between the BLM and the California State Historic Preservation Officer. The process that the BLM believes is required by the PA presents a severe scheduling challenge, based on the Committee's adopted schedule for the Palen Amendment PSA publish date of May 22, 2013, and FSA publish date of July 23, 2013.

At present, the applicant's archaeologist has submitted the work plan, which BLM has reviewed and provided recommended changes back to the applicant. As of Tuesday, May 14, 2013, the applicant has responded to BLM's request for additional information. Even under ideal circumstances, meaning the BLM rapidly approves the revised work plan and distributes it for review and comment by the signatories and interested tribes, the soonest approval of a FA would be in early July.

The applicant's archaeologist and Energy Commission staff have preliminarily estimated the time required to actually accomplish all of the work described in the Data Requests could run through early October. This schedule is further constrained by BLM's requirement that the requested studies be presented as a single report product, rather than a series of deliverables where initial phase work items could be reviewed while later, more time-consuming work is being done.

Staff is currently reviewing the PA, and conferring with BLM managers to see if there is any flexibility in the process for obtaining the apparently requisite FAs, which would allow the applicant to proceed with the necessary work to respond to Data Request Set No. 2. Staff will apprise the Committee of any progress in this regard in a future Project Status Report.

### **4. Traffic and Transportation**

To complete the Traffic and Transportation impacts analysis, staff needs information from the applicant regarding the glint and glare produced by the heliostats and solar power towers, which could potentially impact motorists and pilots near the project site. Data Request Set No.3 requested this information. The applicant would need to provide detailed responses, which staff would then analyze in order to assess the project's glint and glare impacts. These steps cannot be completed in time for a PSA. A complete Traffic and Transportation

analysis, including a discussion of glint and glare impacts, would need to be published in the FSA.

## **5. Alternatives**

Project alternatives are currently being developed and are anticipated to be published with the FSA.

## **Schedule**

Staff has put a priority on the Palen Solar Electric Generating System Amendment and works diligently to incorporate the new information that is being provided by the applicant. In order to have a thorough analysis of a majority of the project in the PSA, staff will publish a PSA by June 28, 2013. Staff notes that there may still be data gaps in the PSA that will be filled in the FSA, particularly in the technical areas discussed above.

cc: Docket (09-AFC-7C)  
Proof of Service List  
Mail list # 7373





**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**AMENDMENT**

**FOR THE PALEN SOLAR ELECTRIC  
GENERATING SYSTEM**

**Docket No. 09-AFC-7C**

**PROOF OF SERVICE  
(Revised 05/09/2013)**

**SERVICE LIST:**

**APPLICANT**

Palen Solar Holdings, LLC  
Clay Jensen  
410 South Rampart Blvd., Suite 390  
Las Vegas, NV 89145  
cjensen@brightsourceenergy.com

Palen Solar Holdings, LLC  
Charlie Turlinski  
1999 Harrison Street, Suite 2150  
Oakland, CA 94612  
cturlinski@brightsourceenergy.com

**APPLICANT'S CONSULTANT**

Centerline  
Andrea Grenier  
1420 E. Roseville Parkway  
Suite 140-377  
Roseville, CA 95661  
andrea@agrenier.com

**APPLICANT'S COUNSEL**

Scott Galati, Esq.  
Marie Fleming  
Galati/Blek, LLP  
455 Capitol Mall, Suite 350  
Sacramento, CA 95814  
sgalati@gb-llp.com  
mfleming@gb-llp.com

**INTERESTED AGENCY**

California ISO  
e-recipient@caiso.com  
  
County of Riverside  
Office of Riverside County Counsel  
Tiffany North  
3960 Orange Street, Suite 500  
Riverside, CA 92501  
tnorth@co.riverside.ca.us

**INTERVENORS**

Center for Biological Diversity  
Lisa T. Belenky, Senior Attorney  
351 California St., Suite 600  
San Francisco, CA 94104  
lbelenky@biologicaldiversity.org

Center for Biological Diversity  
Ileene Anderson  
Public Lands Desert Director  
PMB 447, 8033 Sunset Boulevard  
Los Angeles, CA 90046  
ianderson@biologicaldiversity.org

Basin and Range Watch  
Kevin Emmerich  
Laura Cunningham  
P.O. Box 153  
Baker, CA 92309  
atomictoadranch@netzero.net  
bluerockiguana@hughes.net

Californians for Renewable Energy  
Alfredo Acosta Figueroa  
424 North Carlton Avenue  
Blythe, CA 92225  
lacunadeaztlan@aol.com

California Unions for Reliable Energy  
Tanya A. Gulesserian  
Elizabeth Klebaner  
Adams Broadwell Joseph & Cardoza  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
tgulesserian@adamsbroadwell.com  
eklebaner@adamsbroadwell.com

Hildeberto Sanchez, Eddie Simmons,  
and Laborers' International Union of  
North America, Local Union No. 1184  
c/o Richard T. Drury  
Christina M. Caro  
Lozeau|Drury LLP  
410 12th Street, Suite 250  
Oakland, CA 94607  
richard@lozeaudrury.com  
christina@lozeaudrury.com

**ENERGY COMMISSION STAFF**

Christine Stora  
Project Manager  
christine.stora@energy.ca.gov

Jennifer Martin-Gallardo  
Staff Counsel  
jennifer.martin-gallardo@energy.ca.gov

**ENERGY COMMISSION –  
PUBLIC ADVISER**

Blake Roberts  
Assistant Public Adviser  
publicadviser@energy.ca.gov

**COMMISSION DOCKET UNIT**

California Energy Commission  
Docket Unit  
Attn: Docket No. 09-AFC-07C  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
docket@energy.ca.gov

**OTHER ENERGY COMMISSION  
PARTICIPANTS (LISTED FOR  
CONVENIENCE ONLY):**

***After docketing, the Docket Unit  
will provide a copy to the persons  
listed below. Do not send copies of  
documents to these persons  
unless specifically directed to do  
so.***

KAREN DOUGLAS  
Commissioner and Presiding Member

DAVID HOCHSCHILD  
Commissioner and Associate  
Member

Kenneth Celli  
Hearing Adviser

Galen Lemei  
Adviser to Presiding Member

Jennifer Nelson  
Adviser to Presiding Member

\*Kelly Foley  
Adviser to Associate Member

Eileen Allen  
Commissioners' Technical  
Adviser for Facility Siting

**DECLARATION OF SERVICE**

I, Christine Stora, declare that on May 15, 2013, I served and filed copies of the attached Palen Status Report No.2 (May 2013), dated May 15, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/palen/compliance/>.

The document has been sent to the other persons on the Service List above in the following manner:

**(Check one)**

**For service to all other parties and filing with the Docket Unit at the Energy Commission:**

X I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the U.S. mail with first class postage to those parties noted above as "hard copy required";  
**OR**

       Instead of e-mailing the document, I personally delivered it or deposited it in the U.S. mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: May 15, 2013

Christine Stora